

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

DANIEL ERIC COBBLE,

Petitioner,

VS.

United States Magistrate Judge
CHARLES H. WEIGLE,

Respondent.

CIVIL ACTION NO. 5:12-CV-438 (MTT)

ORDER

Petitioner **DANIEL ERIC COBBLE**, presently incarcerated at Smith State Prison in Glennville, Georgia, has filed a *pro se* Petition for Writ of Mandamus in which he requests this Court to issue a mandamus “to make Judge Weigle abide by his own court order” in *Cobble v. McLaughlin*, 5:12-CV-86 (CAR). (Doc. 1-3 at 1). Petitioner has also filed a motion to proceed without prepayment of the filing fee or security therefor pursuant to 28 U.S.C. ' 1915(a). (Doc. 3).

The Prison Litigation Reform Act provides as follows:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. ' 1915(g)

“Petitions for Mandamus against either federal officials or state officials qualify as ‘civil actions’ under 28 U.S.C. § 1915(g).” *Fair v. Adams*, 2012 U.S. Dist. LEXIS 171130 at *8-*9 (S.D. Fla. October 10, 2012) (citing *In Re. Jacobs*, 213 F.3d 289 (5th Cir. 2000)). The Eleventh Circuit has consistently upheld the constitutionality of ' 1915(g). *Rivera v.*

Allin, 144 F.3d 719, 721-27 (11th Cir. 1998), *abrogated on other grounds by Jones v. Bock*, 549 U.S. 199 (2007).

A review of court records reveals that Petitioner has filed numerous actions in both this Court and in the United States District Court for the Northern District of Georgia. At present, at least four of these complaints or appeals have been dismissed as frivolous pursuant to 28 U.S.C. ' 1915: *Cobble v. Bloom*, 1:04-CV-1150-CAM (N.D. Ga. May 13, 2004); *Cobble v. Ward*, 1:04-CV-560-CAM (N.D. Ga. March 31, 2004); *Cobble v. Cobb County Police*, 1:02-CV-2821-CAM (N.D. Ga. Nov. 7, 2002); and *Cobble v. Donald*, 09-10996-G (11th Cir. July 27, 2009). Because Petitioner has had at least four prior dismissals, he cannot proceed *in forma pauperis* in the instant case unless he can show that he qualifies for the imminent danger of serious physical injury¹ exception of ' 1915(g). Petitioner has not made such a showing.

Therefore, Petitioner's request to proceed *in forma pauperis* is **DENIED** and the instant action is **DISMISSED** without prejudice.¹

SO ORDERED, this 6th day of December, 2012.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

Inb

¹ Petitioner's motion for court to order service (Doc. 2) is **DENIED AS MOOT**.